



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/14U105639

6 June 14

Mr. Thomas W. Sikes



Dear Mr. Sikes:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUEST;
FOIA TRACKING NUMBER DON-NAVY-2014-005135

This is in reference to your Freedom of Information Act (FOIA) request dated April 21, 2014. Your request was received in our office on April 22, 2014 and was assigned FOIA tracking number DON-NAVY-2014-005135.

Please be advised that the FOIA is a records retrieval statute. Your request is phrased as a request for records, but then proceeds to ask for specific information you expect will be contained in any responsive records. As a result, we are interpreting your request to be a request for "All FOIA requests received and/or processed by the SECNAV/CNO FOIA Requester Service Center from May 15, 1996 to the present that contain the word 'Boorda.'" and for "The final disposition letters for all FOIA requests received and/or processed by the SECNAV/CNO FOIA Requester Service Center from May 15, 1996 to the present that contain the word 'Boorda.'" and for "Records identifying the forum, litigation case number, and disposition of all FOIA requests received and/or processed by the SECNAV/CNO FOIA Requester Service Center from May 15, 1996 to the present that contain the word 'Boorda' and were subsequently litigated."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA (See 5 U.S.C. § 552(c)). This response is limited to records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

DON FOIA records are maintained in accordance with the provisions of SECNAV M-5210.1, The Department of the Navy Records Management Manual. FOIA records are filed under Standard Subject Identification Code (SSIC) 5720.9. As a result, records responsive to your request may have been routinely destroyed, in

accordance with these guidelines. A copy of SECNAV M-5210.1 is publicly available at <http://doni.daps.dla.mil/>.

With regard to the first portion of your request (FOIA Requests), we conducted a search and identified one document responsive to your request. You appear to be the author of this request, so the request is released to you in its entirety.

Additionally, please be advised that, during the conduct of our search, we identified a second request, also submitted by you, which appears to be concerned with Admiral Boorda. However, the request did not contain the word "Boorda." This request is released to you in its entirety.

With regard to the second portion of your request (Final Determinations), we identified one record, associated with the above request. Also enclosed is the final determination letter for the nonresponsive request of interest.

In the interests of full disclosure and transparency, please be advised that a copy of responsive records will be released to the public as well. Contact information for the requester will be withheld for this public release. Under 5 U.S.C. § 552(b)(6), release of this information to anyone other than yourself would result in a clearly unwarranted invasion of your personal privacy, and we do not have a signed privacy release authorizing this disclosure.

With regard to the final portion of your request (Litigation), though the FOIA does not require an agency to answer questions, we contacted Office of the Judge Advocate General, General Litigation Division (OJAG Code 14) in the interest of convenience and transparency. OJAG Code 14 advised that the only Navy FOIA request pertaining to ADM Boorda that has resulted in litigation is your own - Sikes v. United States et al., 2013 U.S. Dist, LEXIS 179095 (S.D. Ga. 2013). OJAG Code 14 also provided the following information with regard to that litigation:

Forum: Southern District of Georgia

Case Number: CV 312-045

Disposition: Defendants' motion for summary judgment was granted with respect to the United States of America, Judge Advocate General, and Does 1 through 10. These defendants were dismissed from the action. Plaintiff's motion for summary judgment was granted with respect to Defendant Department of the Navy. Judgment was entered for the plaintiff and against Defendant Department of the Navy for the following relief: Defendant Department of the Navy was ordered to supply Plaintiff with an unredacted invitation list for Admiral Boorda's Change

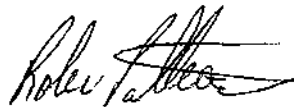
of Command Ceremony. Plaintiff was also awarded reasonable attorney's fees and costs.

Please be advised that this office does not normally track FOIA litigations on the basis of forum or litigation case number. Those aspects of litigation are normally only mentioned in the context of records submitted to the court in support of litigation. Such records are publicly available through Public Access to Court Electronic Records (PACER) at <http://www.pacer.gov/>. Additionally, court records are maintained by the Judiciary Branch and therefore are not subject to the FOIA. Please be advised, however, that general information regarding FOIA litigations is normally available through the U.S. Department of Justice (DOJ) FOIA Litigation and Compliance Reports, available at <http://www.justice.gov/oip/>. The FOIA requires the Attorney General to submit a report to Congress each calendar year detailing the efforts of the Justice Department to encourage agency compliance with the FOIA. This report also includes lists of all FOIA litigation cases received and decided in that calendar year.

In this instance, the fees associated with the processing of this request were below the minimum threshold and have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

Questions regarding the action this office has taken during the processing of your request may be directed to our FOIA service center at (202) 685-0412.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Patterson", with a stylized flourish at the end.

Robin Patterson
Head, DON FOIA/PA Program Office